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About the Author

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Abstract

Irregular migration in recent years has thrown Europe off-balance, with the rise in Euroscepticism indicating the conflict between national sovereignty and the need to find international solutions to transboundary challenges. Rather than focusing on neo-functional spillover occurring internally, this paper focuses on exogenous factors that trigger integration in the European Union (EU). The analysis addresses the following research question: What has been the effect of the 2011 Arab Spring and the 2015 'refugee crisis' on the institutionalisation of EU border management? It is argued that the EU has externalised integrated border management to neighbouring countries or regions to fulfil its internal border management objectives. Libya and Turkey are used as case studies both due to their relevance to the EU as neighbouring transit countries for migrants and because of their differing domestic situations and relations with Europe. While Libya has moved closer to re-establishing a centralised government and Turkey has established a new Directorate-General for Migration Management in its Ministry of Interior, the EU itself has also transformed since the onset of the refugee crisis. This study explores examples such as the widened mandate of FRONTEX and the negotiation of the 'EU-Turkey deal' to demonstrate how the EU has adapted to external developments. Libya and Turkey will also be contrasted in terms of the progress that has been achieved at an EU level. Therefore, this study does not see third countries merely as passive recipients of EU foreign policy but also as agents in and of themselves, influencing EU institutions from the 'outside-in'.

Introduction: The Externalisation of Internal Policy

The Middle East policy of the European Union (EU) underwent drastic modifications since the onset of the Arab uprisings. Although managing migratory flows beyond European soil is by no means a new approach, EU initiatives seem to be headed more intently in this direction in recent years. In attempting to stem the flow of migration along the migratory route, the EU has in a sense fashioned third countries into Europe's new borders. In turn, this creates a heavy reliance on developments from these non-EU countries and their political will to cooperate with the EU. Even though the 1.5 million irregular migrants entering the EU in 2015 correspond to only 0.3% of EU inhabitants, the Schengen area has been placed at risk as member states shut their borders and the EU struggles to implement a cohesive response. The Area of Freedom Security and Justice (AFSJ) remains a shared competence according to Article 4 TFEU, leaving room for incoherence, and it has placed the need for asylum reform in the spotlight. Moreover, a perceived lack of solidarity from other member states has pushed countries to resort to *ad hoc* bilateral arrangements.[1]

Traditional integration theories tend to prioritise internal integration processes rather than what triggers them. More attention is given to endogenous factors and causes, and research often portrays structural foreign policy as an action which the EU enforces on non-EU countries.[2] The aim of this paper is to look at the other side of the coin, analysing the structural influence that irregular migration from third countries has had on European integration, particularly with regards to its border management policy in Libya and Turkey. Hence, migration will be seen as an external trigger based on two catalytic events: the 2011 Arab Spring which resulted in the ousting of Gaddafi and the 2015 'refugee crisis' following the outbreak of the Syrian civil war. This may be simplified into a single research question: What has been the effect of the 2011 Arab Spring and the 2015 'refugee crisis' on the institutionalisation of EU border management?

Libya and Turkey have been chosen for their strategic importance to the EU as buffer states, but also serve the purpose of portraying drastically different domestic situations which influence the nature of their bilateral relations with the EU. Therefore, the political

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[1] I. Iliev *et al.*, 'European Neighbourhood Policy: A New Attitude towards the "Southern Neighbours"', in K. Panayotova (ed.), *Arab Spring: Hopes for Change and Challenges to the EU Foreign and Security Policy*, Berlin, Friedrich Ebert Stiftung, 2012.
[2] S. Keukeleire & T. Delreux, *The Foreign Policy of the European Union*, Basingstoke, Palgrave Macmillan, 2nd edn., 2014, pp. 27-29.

conditions in Libya and Turkey are pivotal factors. Third countries are not merely recipients of EU conditionality but also exert their own conditionality on the EU. This raises the question of whether or not each third country's varying conditions influence the deepening of EU integration. The influence of the refugee crisis on the EU's external competences in border management depicts the struggle of member states that must choose between retaining sovereignty and uniting for a common response. This paper hypothesises that EU competence has increased as a result of efforts to react to external factors, suggesting a causal link between external pressures and internal developments - in this case the EU's capacity not only to manage its own external borders but also to expand border management beyond the Schengen area. The paper concludes that although there has generally been substantial progress when it comes to institutionalised integrated border management (IBM), this institutionalisation differs in strength when IBM is externalised to Libya and Turkey. It follows that Turkey's bargaining position and Libya's lack of functioning institutions influence the course of EU integration.

The paper first lays out the methodology used through an analytical framework that aims to assess the level of institutionalisation of externalised border management. A general overview of border management competences follows, setting the context and comparing progress both before the Arab Spring and after. The analytical framework is then applied to Libya and Turkey, mainly after 2011, in order to focus on the external dimension. This analysis assesses institutionalisation as weak, moderate or strong in order to conclude whether the initial hypothesis has been confirmed. The conclusions also generates a set of proposals and real-life examples to facilitate the institutionalisation process.

Analytical Framework

This section will introduce the tools to be used to analyse how EU border security has developed since the onset of the Arab Spring and the 2015 migrant and refugee crisis. The hypothesis established in the previous section is based on the notion that external factors are affecting the EU internally. An effort must therefore be made to maintain an 'outside-in' perspective by depicting third countries as more than just passive subjects of the EU's policy.[3]

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[3] S. Keukeleire & S. Lecocq, "From a Decentring Agenda to a Decentred Analytical Praxis: Analysing European Foreign Policy in a Non-European and Post-Western Order", *8th Pan-European Conference of the ECPR/EUSG*, Trente, 2016.

The main concept in this research, institutionalisation, is based on Boin, Ekengren and Rhinard's definition as "the process by which a norm, a law, a practice, or an organizational structure takes on institutional characteristics" and by which "processes and structures emerge, become embedded in supranational rules, procedures and patterns of interaction, and gain legitimacy".[4] They argue that institutionalisation may be seen as a spectrum which ranges from intergovernmentalism to fully institutionalised modes resembling federalism, placing the EU somewhere in the middle range. Similarly, the degree of integration can be measured by considering coherence and supranational competences or bodies. Integration may also refer to widening through EU accession or policy alignment with third countries (as is the case for Turkey). This still leaves the question how institutionalisation can be measured.

Since migration, asylum and border management are not exclusive EU competences, coherence composes one of the main pillars of EU 'actorness' in border security. The term 'actorness' pertains to the EU's capacity for independent decision-making and the strength of its presence in world affairs. It was defined by Sjöstedt as "the capacity to behave actively and deliberately in relation to other actors in the international system".[5] In their analysis of the EU as a security actor, Carrapico and Barrinha propose an analytical framework for assessing EU coherence in the security sector, drawing a correlation between increased coherence and strengthened actorness.[6] Carrapico and Barrinha's analysis is split along two types of institutional coherence: horizontal relations across EU and national institutions, and vertical relations between EU and member state institutions. Institutional coordination is here defined as "the optimal alignment of procedures, policy outputs, instruments and actors" needed to address transboundary threats.[7] Hence, policy coherence or mainstreaming is brought under the umbrella of the horizontal dimension along with coordination between institutions, bodies and instruments.[8] The link between inter- or intra-institutional coherence and policy coherence cannot be over-emphasised. It is impossible, for instance, to close the gap between internal and external policies without institutional cooperation.

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[4] A. Boin, M. Ekengren & M. Rhinard, *The European Union as Crisis Manager: Patterns and Prospects*, Cambridge, Cambridge University Press, 2015, p. 11.

[5] G. Sjöstedt, *The External Role of the European Community*, Westmead, Saxon House, 1977, p. 16.

[6] H. Carrapico & A. Barrinha, 'The EU as a Coherent (Cyber)Security Actor?', *Journal of Common Market Studies*, vol. 55, no. 6, pp. 1254-1261.

[7] *Ibid.*, pp. 1257.

[8] *Ibid.*, pp. 1254-1261.

However, in order to accurately measure institutionalisation, it is necessary to supplement coherence with a second approach. Baird merges the concepts of 'functional integration' and 'actorness', coining the term 'functional actorness'.[9] Just as functional integration refers to a process of spillover which achieves European integration incrementally, functional actorness denotes a gradual increase in integration which in turn empowers the EU to act externally. According to this model, 'functional power' is determined by 1) the degree of homogeneity in border security, 2) the capacity or incapacity to control borders and exert influence, and 3) the results of the first two factors in the third country concerned. What Baird refers to as 'homogeneity' or 'symmetry' overlaps with Carrapico and Barrinha's concept of institutional coordination or coherence.

These two frameworks can therefore be linked together, with 'coherence' as a common indicator, supplemented by Baird's inclusion of 'capacities' and 'external outcomes'.[10] What emerges is a hybrid framework in which the degree of institutionalisation in border assistance missions will be measured using three indicators: 1) Institutional Coordination/Coherence, 2) New Capacities/Competences, and 3) External Outcomes.

These indicators are often interdependent. For example, as more competences shift to the supranational level, coherence is expected to increase because less of the policy area concerned is left to the member states' discretion. As agencies like FRONTEX and the European Asylum Support Office (EASO) have shown, the need for policy mainstreaming or coordination between member states may lead to the creation of new agencies or mechanisms. This would involve both an increase in institutional coherence and the development of new capacities. In fact, this interdependence makes the indicators at times difficult to differentiate in a clear-cut manner, rendering the assessment more intricate.

Table 1 summarises the hybrid framework of institutionalisation and further breaks down the three indicators. 'Institutional Coordination/Coherence' adheres to Carrapico and Barrinha's definition of vertical and horizontal coherence. The following two indicators – 'New Capacities/Competences' and 'External Outcomes' together complete the EU's functional actorness – in other words, its ability not only to

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[9] T. Baird, 'Functional Actorness? Border Security in the EU and Turkey', *International Journal of Public Administration*, vol. 38, no. 12, 2015, pp. 849-851.
[10] *Ibid.*

institutionalise IBM, but also to externalise it as a result of its increased capacities. New capacities may manifest themselves in the form of new institutions or an increased mandate for existing institutions, as well as new EU-level law and policy. External outcomes refer to the EU's ability to use said coherence and new capacities to achieve results in a third country or region. As will be shown later, this may result in the creation of new institutions and policies in the third country. However, it is worth considering that these new developments mean that the external context with which the EU interacts changes, causing the EU to adapt to its changed surroundings once again (and so on).

Table 1: Analytical framework to assess the institutionalisation of externalised IBM[11]

Institutional Coordination/Coherence (Carrapico & Barrinha, 2017)	

Vertical
▪ between EU and member-state levels
▪ between member states bilaterally (resulting from EU-member state coordination)
	Horizontal
	▪ between and within EU institutions
	  - policy mainstreaming
	  - internal-external gap
	▪ between institutions within the same member state

New Capacities/Competences (Baird, 2015) ▪ creation of new transnational institutions/agencies ▪ enhanced mandate/resources for existing institutions/agencies ▪ EU-level policy and legislation (Regulations vs. Directives)	
External Outcomes (Baird, 2015) ▪ coordination and policy convergence between EU/member states and third country as a result of EU influence ▪ third country influence on the EU	

Source: compiled by the author.

Therefore, successful institutionalisation will be determined through increased coherence, the adoption of EU-level laws and policies, the creation of new institutions or an increased mandate, and the achievement of more effective results in relations with third countries. Stagnation would indicate that mass migration has had an insignificant effect on EU integration while disintegration would entail a decrease in each indicator. It must not be taken for granted that the refugee crisis is accelerating the communautarisation process, nor that it is the one and only catalyst for such integration. The possibility of a spill-back effect in certain areas should therefore be taken into account. It is not only third countries such as Libya and Turkey which

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[11] For further details, see M. Bonnici Bennett, *Institutionalisation as a Result of External Triggers? The Refugee Crisis and the EU's Externalisation of Integrated Border Management to Neighbouring Buffer States*, Master's thesis, Bruges, College of Europe, 2018.

Europeanise their behaviour through conditionality. Third countries have their own foreign policies based on national interests and may resist the EU's influence or even slow down or reverse the EU integration process by rejecting such interventions and using their bargaining power. It is here that the decentred (non-Eurocentric) approach must be upheld to demonstrate how external factors influence EU integration.[12]

The final assessment will be based on a scale ranging from weak to moderate and strong. Full or nearly full supranationalisation or undeniably drastic convergence since the crisis will indicate 'strong' institutionalisation. 'Moderate' institutionalisation can be said to have been achieved where clear progress has been made since the crisis although some incoherence persists. The level of institutionalisation will be classified as 'weak' if strong levels of incoherence and low cooperation can be identified before and after the crisis, or if the indicators have regressed since its onset. In both case studies, the assessments of each indicator will be aggregated into an overall average of weak, moderate or strong.

The Development of Integrated Border Management

While keeping the indicators in mind, this section provides a general chronological overview of EU capabilities in border management both before and after the 2011 Arab Spring and 2015 refugee crisis. This will provide sufficient context regarding the tools, mechanisms, laws and policies the EU has in place before delving into the specific cases of Libya and Turkey. It is also important to note how such capacities developed over time.

Justice and Home Affairs (JHA) gradually shifted to a European level following the 1985 Schengen Agreement and 1986 Single European Act (SEA). It was not until the SEA removed internal frontiers to ensure free movement of goods, persons, services and capital that attention was drawn to variations in immigration and asylum procedures across Europe, encouraging intergovernmental cooperation. The 1990 Schengen Agreement abolished internal frontiers and established common external border and visa policies.[13] In contrast to its predecessor, the 1990 Agreement adopted the 'compensatory measures' mentality of its time, while the notion of AFSJ came about as a flanking measure to the internal market. This still left room for *à la carte* cooperation with the UK, Ireland and Denmark. EU immigration, asylum and border

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[12] *Ibid.*
[13] Boin, Ekengren & Rhinard, *op. cit.*, pp. 114-118.

policy was fully communautarised by the Amsterdam Treaty which moved this policy area to the first pillar or Community method. This entailed the involvement of the Commission in decision-making. Thus, the Schengen *acquis* became fully integrated into the EU structures.[14] Several internal processes, as well as external crises, were therefore already scaling up the level of integration in border management long before the Arab Spring.

The 1999 Tampere European Council developed the first common migration and asylum policy in the EU while the 2002 Seville Summit on illegal immigration adopted a number of steps towards an integrated approach to border management. These included improved coordination and cooperation, integrated risk analysis, common burden sharing laws and basic standards. EU external borders soon witnessed a big bang expansion towards new member states with untested border security capacities. Talk of border management was reinvigorated in the Hague and Stockholm Programmes and spurred the creation of information databases such as the Schengen Information System (SIS), its successor (SIS II), the Visa Information System (VIS) and the European Asylum Dactyloscopy database (EURODAC).[15]

Institutional Coherence

The elimination of internal borders only served to strengthen the urgency of standardising external border controls. Securitisation was further reinforced by external threats such as the 9/11 terrorist attacks, emphasising the need to tackle immigration through an integrated approach. Following 9/11, differing interpretations of Schengen rules prevented the adoption of standardised laws and practices, rendering the common external frontier vulnerable. A coherent approach was needed to tackle irregular immigration and cross-border crime, especially in light of the 'big bang' enlargement which would incorporate new states into the Schengen area. At Italy's request, a European Border Police was proposed to coordinate national operational centres. The UK opposed the creation of a supranational structure and the 2001 Laeken European Council avoided any reference to an integrated EU border guard, alluding instead to cooperation between external border controls and the possibility of a common mechanism. The Italian feasibility study, which proposed a network model in a system of 'knots', resulted in several joint operations coordinated by the European Corps of Border Guards (ECBG) which was meant to support but not replace

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[14] *Ibid.*
[15] *Ibid.*

national services.[16] The heads of border guards of each Schengen member state initially cooperated within the Strategic Committee on Immigration, Frontiers and Asylum (SCIFA+) although doubts quickly arose about its capacities to fulfil its objectives, resulting in the establishment of FRONTEX in 2004.[17]

Although these advances occurred well before the Arab Spring, they confirm that external threats played a hand in the development of IBM. Today, EU border security remains highly fragmented, operating through multiple institutions and jurisdictions which the FRONTEX coordinates.[18] Moreover, the Common European Asylum System (CEAS) continues to discourage inter-state cooperation. Member states are able to become part of Schengen and opt out of the CEAS, creating free-riding issues as Denmark's opt out of all EU asylum instruments except for the Dublin Regulation. This allowed Denmark to slash its social security benefits to refugees to persuade them to seek help elsewhere, while it also failed to relocate some 160,000 asylum-seekers from Greece and Italy.[19]

On the other hand, 2011 also saw the creation of the European Agency for the Operational Management of Large-Scale IT Systems in the AFSJ (EU-LISA) to ensure administrative cooperation between relevant member state departments. EU-LISA is a regulatory agency with legal personality and currently manages the EURODAC database to monitor asylum applications, the SIS II for information sharing in international crime investigations, and the VIS for the processing of visa applications and other border entry procedures.

On 19 June 2018, the Bulgarian Presidency and the European Parliament Rapporteur managed to conclude a number of outstanding issues related to the EURODAC Regulation as one of the seven legislative proposals composing the future reformed CEAS. These issues concerned data transfers in third countries for returns and obtaining biometric data from minors. An agreement was also reached on the Resettlement Regulation, Reception Conditions Directive and Qualification Regulation proposals. However, when presented to COREPER on 19-20 June 2018 these did not obtain the required support from member states. The Austrian Presidency in the second half of

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[16] *Feasibility Study for the Setting Up of a European Border Police*, Final Report, Rome, 30 May 2002.
[17] V. Moreno-Lax, *Accessing Asylum in Europe*, Oxford, Oxford University Press, 2017, pp. 42-44.
[18] Baird, *op. cit.*, p. 856.
[19] M. Den Jeijer, J. Rijpma & T. Spijkerboer, 'Coercion, Prohibition, and Great Expectations: The Continuing Failure of the Common European Asylum System', *Common Market Law Review*, vol. 53, no. 4, 2016, p. 614.

2018 undertook the task of holding meetings to address outstanding issues among member states and present a compromise to the European Parliament. However, the Parliament has so far insisted on the provisional agreement originally reached in June. Bilateral meetings between the Austrian Presidency and EU member states continue with a view to developing a Council position on the Dublin Regulation, particularly regarding new approaches to disembarkation and new forms of solidarity providing aid to member states under pressure.[20]

At first glance, coordination seems relatively weak, relying on voluntary contributions from member states, and the rise of populism does not bode well for European integration. However, with the strengthening of FRONTEX, the establishment of EU-LISA and ongoing CEAS reforms, institutional coherence can be cautiously classified as moderate.

New Capacities

It is questionable whether FRONTEX can be considered an autonomous actor in EU asylum and immigration policy. Although its budget and staff have drastically increased since the onset of the refugee crisis, the Agency's activities are heavily dependent on the member states. The original Regulation establishing FRONTEX was limited to a coordinating or facilitative role while member states retained full control over their external borders. However, FRONTEX's coordinating role endows it with some responsibility for the result of joint missions. The division of responsibilities between member states and FRONTEX has been a highly contentious issue, particularly in cases where migrants have perished during a joint operation coordinated by the Agency.[21] A Centralised Record of Available Technical Equipment (CRATE) was also developed to facilitate responses to member states' calls for help. However, this was dependent on a voluntary pool of member state surveillance and control equipment. During the Arab Spring, the CRATE system was reinforced with materials owned or co-owned by FRONTEX as well as a rapid reaction equipment pool in 2016.[22]

FRONTEX possesses very few own resources and relies on member states for officers, ships and helicopters. In 2007, interior ministers agreed on establishing Rapid Border Intervention Teams (RABIT) to equip the Agency with 450 national experts that could

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[20] European Asylum Support Office, 'Recent Developments in EU Asylum and Migration Policy', Policy Update, *EASO Executive Office*, no. 14, 18 September-31 October 2018.
[21] S. Léonard, 'EU Border Security and Migration into the European Union: FRONTEX and Securitisation through Practices', *European Security*, vol. 19, no. 2, 2010, pp. 231-254.
[22] Moreno-Lax, *op. cit.*, pp. 31-37.

be made available at short notice. Contrary to FRONTEX's usual voluntary pools, all member states are required to participate in RABIT and to mobilise their resources when requested by a fellow member state. Eventually, 2010 saw the first request for assistance due to unprecedented migrant inflows, leading to the first ever deployment at the Greek-Turkish border. It is worth noting that as early as 2009 various RABIT exercises and training courses were already taking place before any state had requested its deployment.[23]

The 2016 European Border and Coast Guard (EBCG) Regulation, which was negotiated in merely nine months, endowed FRONTEX with the right to intervene in member states overwhelmed by migrant influxes – a competence which was previously rejected in 2002.[24] All member states within the Council agreed that such competences were necessary as circumstances had changed. It was no longer a question of whether or not to make such changes, but rather of how to implement them.[25] There has therefore been a very strong increase in new capacities, and the record pace at which FRONTEX's mandate and resources are expanding shows no signs of slowing down. Just two years after the 2016 Regulation, the European Commission has submitted a Proposal for a Regulation to further strengthen the EBCG on 12 September 2018. It also proposed a standing corps of ten thousand border guards and to nearly triple funding for migration and border management in the next Multi-annual Financial Framework for the 2021-2027 period. Moreover, 12 June 2018 marked a new Commission proposal for an Asylum and Migration Fund, Border Management Instrument and Internal Security Fund which would amount to €20.9 billion.[26]

Although FRONTEX remains highly reliant on member state contributions, the constantly accelerating rate at which its mandate is expanding boosts its capacities to a moderate position, with the potential of becoming stronger in the future.

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[23] Boin, Ekengren & Rhinard, *op. cit.*, p. 118.

[24] T. Emiliani & A. Linck, "The External Dimension of EU Immigration Policies: Reacting to External Events?", in C. Damro, S. Gstöhl & S. Schunz (eds.), *The European Union's Evolving External Engagement – Towards New Sectoral Diplomacies?*, Abingdon, Routledge, 2018, p. 132.

[25] Interview with Florian Geyer, Policy Assistant to the Director-General for Migration and Home Affairs (DG HOME, European Commission), Brussels, 30 April 2018.

[26] European Commission, 'Proposal for a Regulation of the European Parliament and of the Council on the European Border and Coast Guard and Repealing Council Joint Action no. 98/700/JHA, Regulation (EU) no. 1052/3013 of the European Parliament and of the Council and Regulation (EU) no. 2016/1624 of the European Parliament and of the Council', COM(2018) 631 final, 12 September 2018, Brussels.

External Outcomes

The emergence of external action in and of itself implies a form of functional spillover. So-called Regional Protection Programmes were adopted by the European Commission in 2004, aimed at supporting areas around the globe with high refugee populations, and proposals were made to establish asylum processing centres in buffer states to tackle influxes outside EU territory.[27] IBM is being externalised not only through the exchange of data with third parties but through direct collaboration with them through extraterritorial checks and pre-border interdiction by FRONTEX.[28] During the negotiations leading to the Schengen *acquis*, the 1998 Austrian Presidency emphasised that border control must include countries of origin and transit.[29] The resistance that met this proposal at the time suggested an aversion to the communautarisation of EU external action in border and immigration policy.

A 'concentric circles' model was adopted, where the member states formed the core, candidate countries aligning their border legislation with the Schengen *acquis* formed the second circle, and transit countries contributing to enhanced transit checks formed the third tier. The outermost layer would be composed of countries of origin which were left with the responsibility of eliminating root causes of migration.[30] In an attempt to cover the entire migration cycle, the concentric circles model aimed to implement 'pre-border' measures.[31] The 2016 Regulation amending FRONTEX emphasised the four-tier access control model composed of measures in third countries, collaboration with neighbouring countries, border control measures at EU external borders, and measures within the Schengen area itself. It empowered FRONTEX to implement a strategy for relations with third countries and international organisations and to assist member states in acquiring travel documents for deportations by cooperating with third-country authorities. FRONTEX has signed Working Agreements with police in border surveillance, providing third countries with intelligence, funding and capacity-building.[32]

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[27] Boin, Ekengren & Rhinard, *op. cit.*, p. 116.

[28] Moreno-Lax, *op. cit.*, pp. 42-44.

[29] Council of the EU, 'Strategic Paper on Immigration and Asylum Policy', Council doc. 9809/98, Brussels, 1 July 1998.

[30] Moreno-Lax, *op. cit.*, pp.31-44.

[31] *Ibid.*

[32] European Union, 'Regulation 2016/1624 of the European Parliament and of the Council of 14 September 2016 on the European Border and Coast Guard', *Official Journal of the European Union*, L 251/1, art. 64(3).

There has therefore been a moderate functional spillover of internal policy into the external dimension. However, results may vary depending on the third country concerned.

Overall, IBM at EU level has been institutionalised to a moderate to strong degree since the onset of the 2011 Arab Spring and 2015 refugee crisis. A significant correlation can be found between the two events and the EU integration process. The following two case studies concerning Libya and Turkey will examine the rate at which the institutionalisation process has developed.

Libya as Europe's New Border

In the midst of instability in the Southern Mediterranean, Libya has remained an enigma with no single entity holding *de facto* power on the ground so far. Conflict between the democratically elected Tobruk government in the East recognised by the United Nations (UN) and the General National Congress (GNC) based in Tripoli is ongoing. The power vacuum left after Gaddafi's assassination in 2011 has made Libya vulnerable to channels of human smuggling with the southern desert region being used as a major transit area.[33]

Institutional Coherence

Despite revisions of the asylum Directives between 2011 and 2013, EU asylum law still does not comprise harmonised standards on procedures and asylum status. The very fact that they are Directives and not Regulations leaves room for incoherence, as these must be implemented into national law by the member states, relegating EU legislation to a basic threshold.[34] Refugee status itself poses a dilemma as it provides equal treatment in public services like education, social welfare and healthcare, all of which fall within national competences.

Vertical incoherence between the EU and national levels due to a lack of supranational standards implies inter-state incoherence, competitive behaviour and refusal to cooperate in emergencies. Italy and Malta have proven to be a classic example, clashing over issues concerning territorial waters in the absence of a supranational settlement mechanism. A phone conversation leaked by the Italian

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[33] International Crisis Group, *How Libya's Fezzan Became Europe's New Border*, Middle East and North Africa Report no. 179, Brussels, 31 July 2017, p. 1.
[34] E.M. Poptcheva & A. Stuchlik, "Work and Social Welfare for Asylum-seekers and Refugees: Selected EU Member States", *European Parliamentary Research Service*, Brussels, 2015.

press in 2017 revealed that pleas for help from migrants off the coast of Lampedusa in 2013 went unaided as Maltese and Italian authorities insisted the sinking vessel was positioned in the other's jurisdiction.[35] As it stands, the Dublin Regulation encourages avoidance behaviour, with member states attempting to shirk asylum processing responsibilities that accompany being the first point of contact. In the summer of 2018, another standoff between Italy and Malta involving the migrant rescue ship MV Lifeline saw 234 migrants stranded at sea for six days as Italian Interior Minister Matteo Salvini closed Italy's ports, insisting that Malta pulls its weight.[36] The vessel was finally allowed to dock in Malta, following Italy's and Malta's accusations against the captain of the boat for violating international law by picking up migrants in Libyan waters. Permission to dock was granted to the ship following an *ad hoc* initiative by eight EU member states agreeing to distribute the migrants amongst themselves, after which the vessel was impounded and the captain arraigned in court for entering Maltese territorial waters illegally and for vessel registration irregularities. Italy's new 'closed door' policy under a populist government is redirecting the migration flow to Morocco, giving the non-EU country new leverage in its bilateral negotiations with Spain.[37]

Hence, all cooperation efforts are based on voluntary *ad hoc* arrangements between states. In 2017, Italy violated the *non-refoulement* principle by promising funding, training and equipment to Libyan authorities to curb refugee influxes. Efforts have been made to institutionalise or harmonise asylum laws and procedures through the Commission's reform goals, mutual recognition of asylum decisions, Dublin reform and the establishment of a common asylum code. A common list of safe countries of origin was released to speed up the application process; however, the Procedures Directive still enables member states to decide whether to process applications from said safe countries.[38]

Coordination under FRONTEX seems to have greatly improved, although the ceding of national sovereignty in border management to a supranational agency remains highly controversial in national armed forces. Malta has reduced its efforts in Operation Triton and is not contributing to Operation Themis, which shifted Italian patrols to

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[35] 'Così l'Italia ha lasciato annegare 60 bambini: in esclusiva le telefonate del naufragio', *L'Espresso*, 8 May 2017.

[36] C. Caruana, 'Malta Closes Ports to Migrant NGO Ships – Government Confirms. Legalistic Statement Puts Rescue Vessels in Limbo', *Times of Malta*, 29 June 2018.

[37] B. Borg & I. Martin, 'Watch: Rescue Ship Lifeline Docks, Most Migrants Claim to Have Escaped Torture in Libya', *Times of Malta*, 27 June 2018.

[38] European Commission, 'Proposal for a Regulation Establishing an EU Common List of Safe Countries of Origin', COM(2015) 452 final, Brussels, 9 September 2015.

Malta's North, West and East, leaving its southern border exposed. However, Malta has maintained its liaison officers to ensure coordination with the mission. Operation Themis emerged as a direct result of migratory pressures from Libya.[39] Through the mission EUNAVFORMED Operation Sophia under the Common Security and Defence Policy (CSDP), Maltese and Italian forces cooperate by training Libyan coastguards in Malta and Italy. However, the unstable political situation in Libya has forced Malta to end its participation in the CSDP border assistance mission (EUBAM) Libya.[40]

It was only after the Arab Spring and 2013 Lampedusa boat wreck that the European Border Surveillance System (EUROSUR) was established to enable cooperation and intelligence sharing between states and FRONTEX through a system of interlinked nodes. A Council press release stated that the EUROSUR Regulation was adopted "without discussion", suggesting that recent developments had increased the willingness of member states to comply, thereby accelerating the integration process.[41] Negotiations had begun long before the infamous Lampedusa wreck; however, this tragedy likely gave member states the final push to reach an agreement.[42]

In the Libyan case, the Arab Spring has introduced more disintegration than coherence due to a lack of common standards and disagreements between member states, as seen in Italy's and Malta's continued lack of cooperation around Lampedusa both before the 2018 Italian general elections and after. In the absence of a European response, member states resort to unilateral measures. The CEAS and Dublin Regulation are severely outdated as they are not adapted to present needs. Without burden sharing and unified external border management, member states feel forced to suspend the Schengen agreement and avoid being the first point of entry for migrants. With Salvini as Minister of Interior, Italy has closed its ports to migrant vessels, prompting Spain to offer to take in stranded boats while *ad hoc* arrangements persist. With the EUROSUR mechanism and common training under EUNAVFORMED to Libya's north, however, collaboration between member states is improving and Malta continues to coordinate with Operation Themis despite not participating. Overall, Libya remains a rather weak area of EU coherence in externalised IBM and even

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[39] Interview with an official and with Joseph Pisani, Staff Officer (Armed Forces of Malta, International Affairs Branch), via telephone, 3 April 2018.
[40] *Ibid.*
[41] Council of the EU, 'Council Adopts Regulation Establishing the EUROSUR System', Press release, 22 October 2013.
[42] Interview with Florian Geyer.

displays signs of regression, as member states revert to unilateral measures or cooperate in an *ad hoc* fashion outside of the EU framework.

New Capacities

The Rabat and Khartoum Processes make a strong case for an emerging Justice and Home Affairs diplomacy as the European External Action Service (EEAS) was involved from the very start of the Khartoum negotiations and so seems to have assumed further autonomy. The Rabat Process (Euro-African Dialogue on Migration and Development) is a regional migration dialogue linking Central, Western and Northern Africa with Europe, thereby bringing together countries of origin, transit and destination. The Khartoum Process addresses human trafficking and smuggling in the Horn of Africa, arguably showing the beginnings of the EU's security-oriented objectives pushed by national interior ministers. Under the framework of the 2015 Joint Valletta Summit on Migration, the EU Trust Fund for Africa has funded a Regional Operational Centre for the Khartoum Process to facilitate joint investigations in the region and beyond. The infrastructure, legal basis and staff, such as focal points and liaison officers, are in the process of being determined.[43] In November 2018, a Senior Officials Meeting was held in the African Union Commission in Addis Ababa to take stock of the implementation of the Joint Valletta Action Plan, gathering representatives from African and European countries and organisations which are party to the Khartoum and Rabat Processes. Interestingly, FRONTEX and Europol were listed under 'European Union' in the participants' list by the implementing organisation, the International Centre for Migration Policy Development, while EASO was listed under 'Organisations'.[44] This demonstrates that individual EU agencies continue to be given different treatment in international settings and suggests that the international presence of border and security-related EU agencies are more advanced than those concerned with asylum.

In 2011, High Representative Catherine Ashton opened a liaison office in Benghazi to support Libyan democracy, border management and security reform and an EEAS mission prepared for the establishment of an EU Delegation to liaise with the National Transitional Council.[45] However, domestic unrest in Libya led to decreased on-the-ground presence of international and EU institutions. In 2014, the EU Delegation in Libya was moved to Tunisia. Border management efforts mainly occur in surrounding regions

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[43] Emiliani & Linck, *op. cit.*, p. 140.
[44] Information obtained from an observer at the Senior Officials Meeting.
[45] N. Koenig, 'The EU and the Libyan Crisis – In Quest of Coherence?', *Italian Journal of International Affairs*, vol. 46, no. 4, 2012, p. 13.

like the Sahel and the Mediterranean rather than Libya itself. The EU currently has no association agreement with Libya, which has also remained outside most of the European Neighbourhood Policy (ENP).[46] In March 2017, the EU was welcomed by the League of Arab States, the African Union and the UN to form a Quartet for coordination on Libyan border security. Due to this being an area firmly planted in the Common Foreign and Security Policy (CFSP)/CSDP, the EU was represented by High Representative Federica Mogherini.

To optimise information gathering and data sharing between EU bodies, CSDP mission Operation Sophia located at Libya's Northern sea border is being equipped with additional staff to cooperate with the Crime Information Cell in crime prevention, investigation and prosecution. Meanwhile, the CSDP mission EUBAM Libya deployed at the southern border has managed to establish itself – albeit rather superficially with five operational staff deployed in Tripoli on rotation.[47]

In policy-making, so-called 'venue shopping' has emerged as a means of seeking to gain more influence and amplify one's voice by choosing the optimal platform, in this case EU institutions, in which to negotiate. Venue shopping has been used by small states like Greece, Cyprus and Malta collaborating with Italy, which since 2008 have become highly proactive and influential. Former Maltese Minister of Interior Carmelo Mifsud mobilised the 'Quadro Group' to speak with one voice and lobby for burden sharing in the JHA and General Affairs Councils. The Quartet's qualms were taken up by the 2009 European Council following intense pressure, especially from the Maltese government.[48] These countries' political priorities were therefore 'uploaded' to the European level.

Opposite to venue shopping, the EU itself has benefited from funding its member states to take the lead in negotiations and joint operations on its behalf.[49] In 2017, €46.3 million was contracted under the EU Trust Fund between the Commission and Italy to be spent on a border management programme across Libyan borders. In its bilateral Memorandum of Understanding with the Presidential Council and Government of

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[46] K. Jongberg, Paper presented by the European Parliament Directorate-General for External Policies at the 10th Inter-Parliamentary Conference for the Common Foreign and Security Policy and the Common Security and Defence Policy, Valletta, 26-28 April 2017, pp. 8, 14-16.
[47] European Commission, *Communication from the Commission to the European Parliament, the European Council and the Council: Progress report on the Implementation of the European Agenda on Migration*, COM(2018) 250 final, Brussels, 14 March 2018, p. 13.
[48] Dobrescu, Schumacher & Stavridis, *op. cit.*, pp. 97-108.
[49] Interview with Florian Geyer.

National Accord (GNA), Italy pledged to complete a border control system in Southern Libya, including reception centres.[50] This Memorandum served as a mouth-piece for Euro-African relations regarding the elimination of root causes of migration.

However, it is difficult to conclude whether the refugee crisis was the main influencer in the integration process. It seems that the EUROSUR Regulation, for instance, would have materialised as part of a natural integration process regardless of the events that unfolded near Lampedusa or Greece. However, the events of 2013 likely did accelerate the process, with the Regulation being approved urgently within the same month. On the other hand, the 2016 EBCG Regulation that was negotiated, concluded and adopted in nine months emerges as a clear sign of external influence when contrasted with the first founding Regulation which had come into effect in 2004 and had limited the agency to facilitating "operational cooperation between member states and third countries".[51]

Prior to the Arab Spring and the Syrian war, member states refused to empower FRONTEX with the right to intervene, whereas afterwards it no longer remained a contentious issue and member states displayed a greater willingness to cooperate. Nevertheless, it seems that the refugee crisis has had a nearly negligible effect on FRONTEX's mandate, which now allows it to engage with third countries but still largely limits it to a coordinative role through standardisation of border guard training and joint operations. Moreover, its missions continue to depend heavily on member state assets. Although the closure of embassies in Libya and the EU Delegation's move to Tunis have indicated de-institutionalisation and isolated Libya further, countries like Malta are looking to re-engage with the country, even appointing a new resident ambassador to Libya. Therefore, EU-level capacities have become weak to moderate in Libya.

External Outcomes

Smugglers interviewed by journalists have claimed that suspending rescue operations to discourage migrants from crossing the Mediterranean had no impact.[52] Demand

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[50] European Commission, COM (2018) 250 final, *op. cit.*, p. 12.
[51] Council of the EU, 'Council Regulation (EC) No. 2007/2004 of 26 October 2004establishing a European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union', *Official Journal of the European Union*, L349, p. 28.
[52] M. Breines *et al.*, DG Migration & Home Affairs, *A Study on Smuggling of Migrants: Characteristics, Responses and Cooperation with Third Countries*, European Commission, Brussels, 2015, p. 38.

for smugglers, and hence the price of the trip, increases in parts of the voyage that are war-torn or difficult to cross alone, mainly from Sudan to Southern Libya and in the Mediterranean.[53] In the absence of economic institutions and a central government, the Fezzan region's illicit economy is thriving.[54]

Libya is not a party to the 1951 Refugee Convention and its authorities in the early 2000s deported or detained migrants, disregarding their asylum rights. Gaddafi's border policy towards the African neighbours, even before the revolts, needs to be taken into account. Well before the Arab Spring and the absence of a centralised government, he was largely responsible for the porosity of Libyan borders due to his Pan-African approach, open-door policy and collusion with smugglers. These factors made Libya a popular migrant destination even before 2011. This means there was scant border management to begin with, meaning it must be built or developed from scratch. The southern border remains porous and unregulated due to the vast stretches of desert land that remain unguarded, leading it to be dubbed "Europe's new border".[55] Even as a failed state, Libya has exerted influence on the EU, affecting the outcome of its migration and asylum policy. Border assistance missions have on the whole been ineffective due to the absence of a common Libyan government to deploy border guards and stop transnational crime.

Libya is the ultimate proof that the domestic situation and geographic factors greatly affect the EU's ability to set up new bodies or even to be present in the area. EUBAM Libya's effectiveness down south remains minimal and despite efforts to develop an IBM strategy, a Libyan Maritime Rescue Coordination Centre has not yet been established. There seems to be a light at the end of the tunnel, however. During talks between rival leaders called by French President Emmanuel Macron, the GNA, House of Representatives, High Council of State and Libyan National Army agreed to general elections. Although originally planned for December 2018, they have now been postponed to 2019.[56] External outcomes remain rather weak as progress is slow. Table 2 summarises the findings for the case study of Libya.

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[53] *Ibid.*
[54] International Crisis Group, *op. cit.*, p. 5.
[55] L. Pradella & S. Taghdisi Rad, 'Libya and Europe: Imperialism, Crisis and Migration', *Third World Quarterly*, vol. 38, no. 11, 2017, pp. 2414-2419.
[56] 'Libya election to take place in early 2019: UN envoy', *Al Jazeera*, 9 November 2018.

Table 2: Level of Institutionalisation of Externalised IBM in Libya

Institutional Coordination/Coherence (Carrapico & Barrinha, 2017)	
Vertical = weak, possible reversal	Horizontal = weak
New Capacities/Competences (Baird, 2015) = weak-moderate	
External Outcomes (Baird, 2015) = weak	
Overall Assessment: weak	

Source: compiled by the author.

Turkey's Candidacy: Whose Conditionality Is It Really?

Contrary to Libya, Turkey is not merely a buffer state but a candidate country with prospects of one day forming part of EU territory, thereby expanding the EU's external borders. This possibility heightened the urgency of EU border assistance in the region, especially since Turkey has become a popular transit route for Syrian asylum-seekers and the world's largest refugee hosting country. Even at the pre-accession stage, Turkey forms part of the EU's 'economic borders' through its participation in the customs union.[57]

Since Turkey's candidacy for EU accession was accepted in 1999, the EU has transformed Turkish policies as the candidate country adopts reforms to meet pre-accession criteria. EU external cooperation focuses on centralising Turkish border control actors under an Integrated Border Management Bureau and the AKP government has been pressured since 2002 to approximate its border security infrastructure to EU standards. However, it is not only the EU's influence which has mobilised reforms as Turkey has also experienced domestic pressures following the Syrian conflict and border management reform has been delayed.[58]

Institutional Coherence

When Europe was faced with an unprecedented influx in 2015, the EU turned to Turkey in an attempt to nip the issue closer to the bud. Amnesty International claimed that asylum applications were being rejected through a fast-track procedure based on the

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[57] Interview with H.E. Faruk Kaymakcı, Permanent Delegate of the Republic of Turkey to the EU, Brussels, 19 March 2018.
[58] Baird, *op. cit.*, pp. 853-854.

assumption that Turkey was a safe country to return to.[59] The Greek appeals committee previously halted deportations of Syrians based on violations of the *non-refoulement* principle, ruling Turkey as unsafe and blocking the EU-Turkey deal of 18 March 2016 aimed at stemming the influx of migrants transiting to Europe through Turkey.[60]

On the other hand, the Visegrád countries have not joined fellow member states in relocating migrants from Italy and Greece, violating their obligations under the Council Decisions adopted in 2015 prior to the EU-Turkey deal. Hungary, Poland and the Czech Republic faced legal action by the Commission for their negligence and in 2017, the Court of Justice of the European Union (CJEU) overruled Hungarian and Slovakian objections to the Commission's mandatory quotas. In 2016, the EU allowed member states to suspend their visa-free regime for six months due to a rise in asylum requests from Turkish nationals following the attempted *coup d'état* in July of that year. Germany, on the other hand, granted asylum to Turkish military personnel, jeopardising German-Turkish relations and forcing Germany to transfer its military forces to Jordan after the Turkish government refused to allow German lawmakers to visit the troops.[61]

Despite requiring member states to return asylum-seekers to the first point of arrival, the Dublin Regulation was suspended by Germany to enable it to process asylum applications. Germany's open door policy encouraged migrants to make their way to Germany using the Balkan and Turkish route. Member states began unilaterally closing their borders in reaction to the EU's failure to tackle the crisis, making Germany the only state with open borders and leaving its Federal Office for Migration and Refugees (BAMF) severely overwhelmed.[62] Chancellor Merkel's open door policy came to an end following criticism from her party which lost significant support to the far-right.

Turkey has functioning bilateral readmission agreements with Greece and Bulgaria which were negotiated outside the EU framework long before the EU-Turkey readmission agreement and the refugee crisis. The fact that a readmission agreement was finally negotiated at an EU level rather than bilaterally indicates that the Syrian crisis inspired efforts to improve coherence. However, bilateral relations remain a

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[59] Amnesty International, 'Court decisions pave way for first forcible returns of asylum-seekers under EU-Turkey deal', 22 September 2017.
[60] L. Batalla Adam, 'The EU-Turkey Deal One Year On: A Delicate Balancing Act', *Italian Journal of International Affairs*, vol. 54, no. 4, 2017, pp. 47-52.
[61] *Ibid.*
[62] M. Mayer, 'Germany's Response to the Refugee Situation: Remarkable Leadership or Fait Accompli?', *Bertelsmann Foundation*, 1 May 2016.

pivotal point in Turkey's migration management policy. Turkey has restricted the movement of Syrians under temporary protection to prevent them from crossing to Greece. Problems have arisen however, as Greece was accused of violating the EU-Turkey deal as it often claimed to have more returnable refugees than it did.[63] Hence, there is not only a lack of vertical and inter-state coordination, but also lack of external coherence between the EU and Turkey as well as individual member states and Turkey.

Recent developments, however, show that great strides have now been made in the area of Resettlement through a new Resettlement Support Facility project in Turkey which is foreseen to be operational by March 2019. In October 2017, EU member states suggested possible actions to be taken with regards to coordination and possible sharing of resources among member states. An EASO feasibility study identified Turkey as the ideal location for the development for such a pilot project. Six member states are participating in the pilot project, which is aimed at enhancing the efficiency and effectiveness of the current resettlement processing from Turkey.

Turkish border management has become more coherent with EU practices due to the country's accession objectives. However, Turkey still relies on bilateral agreements with neighbouring member states such as Greece. Although the fact that Germany and the Netherlands were leading the negotiations for the EU-Turkey deal may be seen as proof of the EU's lack of actorness (to be analysed further later), it also demonstrates increased coherence, since the EU has empowered its member states to speak with one voice on its behalf. EU coherence in Turkey can therefore be classified as strong.

New Capacities

Although the 2016 EU-Turkey deal may be considered part of an emerging EU sectoral diplomacy in JHA, negotiations were mainly led by Germany and the Netherlands and are therefore debatable as evidence of supranationalisation.[64] Germany wanted to contribute more as the largest receiving EU nation in terms of migrants, while the Netherlands took charge as the Council Presidency. This demonstrates the continuing presence of the intergovernmental Council in external relations. Greece was also instrumental in negotiations through its intensive talks with Turkey in December 2015 and March 2016. It may be argued that member states were respecting the principle of solidarity, and therefore acting in a coherent manner, in representing the EU. As

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[63] Interview with Turkish ambassador to the EU.
[64] Emiliani & Linck, *op. cit.*, p. 140.

seen with Italy's Memorandum of Understanding with Libya, a new trend has arisen in which the EU delegates foreign policy initiatives to member states, providing funding and other support for those states to conclude agreements on Europe's behalf. At first glance, this may seem like a loss of EU capacities. However, it may in fact be a new manifestation of supranationalisation. Yet, the multiplicity of actors concerned indicates that EU-Turkey negotiations on border management have not been fully institutionalised and competences remain fragmented.

The EU-Turkey deal was later proclaimed as not legally binding by the EU due to fears that judicial complications might arise under international law. The General Court announced that the actions brought by three asylum-seekers against the EU-Turkey deal were beyond its jurisdiction, as it was not the EU which concluded the deal but its member states.[65] By issuing the EU-Turkey Statement of 18 March 2016 as a press release, national heads of state and government were able to circumvent Treaty provisions on EU treaty-making and exclude the European Parliament from the decision-making process. Intergovernmental approaches allow the creation of non-legally binding deals, dodging judicial review on the rights of asylum-seekers.[66] In this case, a process of de-institutionalisation took place through the shirking of human rights responsibilities.

Slow decision-making within EU institutions is also to blame for progress moving at a glacial pace, firing up frustration in Turkey. The one-to-one deal component of the EU-Turkey deal, in which one Syrian in Turkey will be resettled in the EU for every migrant arriving in Greece who is returned to Turkey, has been respected by both parties. However, only €1.9 billion of the €3 billion promised to Turkey have been spent so far - Turkey alone having spent €30 billion.[67] A Commission proposal has been submitted for an additional €3 billion for the EU Facility for Refugees in Turkey, a billion of which would come from the EU budget and two-thirds from the member states.[68] Major disagreements have arisen within the Council as member states are pressuring the Commission to cover the entire fund and disagreeing over its regional distribution.[69] Moreover, the voluntary admissions scheme, which helped Turkish officials to convince

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[65] Batalla Adam, *op. cit.*, pp. 44-58.
[66] *Ibid.*
[67] Interview with Turkish ambassador to the EU, *op.cit.*
[68] European Commission, 'EU Facility for Refugees in Turkey: Steering Committee discusses strategic orientation for the second €3 billion tranche', *Commission Press Release Database*, Brussels, 19 June 2018.
[69] Interview with Florian Geyer, *op. cit.*

Syrian migrants to remain in Turkey and wait for a new legal route to the EU, has not yet materialised two years after it was announced.[70]

Turkey has maintained good relations with FRONTEX already before the refugee crisis in anticipation of its accession. Cooperation with FRONTEX and all member states is ensured through a Memorandum of Understanding. There has been close cooperation through Technical Assistance and Information Exchange (TAIEX) programmes to bring Turkish legislation and standards in line with EU rules. Coastguards and patrol cars are partly financed by the EU as part of the EU-Turkey deal, along with increased naval security measures.[71] A 2018 Commission report on Turkey portrayed migration and asylum policy as the most positive aspect of the candidate country's progress in the AFSJ during its pre-accession process. Following the coup attempt, cooperation shows signs of recovery.[72]

During the 2010 Arab Spring, FRONTEX's RABIT mechanism, which obliges member states to provide aid upon a fellow member state's request, was activated for the first time since its inception as Greece suffered from exceptional migratory pressures. The mission built on the 2010 Poseidon Land joint operation by reinforcing deployment, while Poseidon Land 2011 took over following the termination of the RABIT operation to continue patrolling the Greek-Turkish frontier. Objectives of RABIT operations and possible operational cooperation measures were identified, such as transnational police cooperation and National Contact Points on both sides of the border.[73]

Overall, EU competences in negotiations with Turkey remain fragmented between the EU and its various member states. But is there a need for a 'single mouthpiece' as long as all actors 'speak with one voice'? Moreover, EU aid deployed in Turkey, including TAIEX programmes and the first ever RABIT mission, demonstrate that EU-level capacities in Turkey have become moderate.

External Outcomes

The rate at which reforms have occurred in Turkey and the directions these changes have taken have been inconsistent. The IBM Bureau's attempts to unite various organisations under a centralised mandate have failed to materialise within the

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[70] Interview with Turkish ambassador to the EU, *op. cit.*
[71] *Ibid.*
[72] European Commission, 'Turkey 2018 Report', SWD(2018) 153 final, *2018 Communication on EU Enlargement Policy*, Strasbourg, 17 April 2018.
[73] European Commission, 'Frontex and the RABIT operation at the Greek-Turkish border', *Commission Press Release Database*, Memo/11/130, Brussels, 2 March 2011.

stipulated timeframe. That said, the Turkish Ministry of Interior has now developed a Directorate-General of Migration Management which coordinates reception centres and participates regularly in EU capacity-building activities. Turkish border control is fragmented under separate jurisdictions. Hence, Turkish legal norms in integrated border management are diffused across various administrations and bureaucratic tools, leading the EU to push for centralisation.[74]

It may be argued that EU border assistance was not caused by the refugee crisis but by a need to harmonise policies in anticipation of possible Turkish accession. The Syrian conflict has, however, accelerated this integration process, although the 2016 coup attempt and Turkish demands for visa liberalisation have caused the process to stagnate. The draft law on the new Turkish security agency proposed in 2008 was meant to be operationalised by 2012 to absorb the functions peppered across various Turkish authorities. By 2015, this draft remained just that.[75]

The EU has gained negotiation leverage through political conditionality from the readmission agreement and financial aid for detention centres, training and equipment. However, the lower the prospect of Turkey's accession, the less effective the EU's conditionality. Moreover, the EU may be gravely overestimating its budgetary powers in Turkish border management. Due to its role as a transit and host country, Turkey is an indispensable buffer state, meaning the EU itself is being conditioned to accept certain terms.[76]

EU-Turkey relations have suffered due to the deal's inability to live up to expectations. Turkey's democratic decline and the EU's failure to fulfil its promises have led to growing resentment on both sides. Turkey has not yet lifted geographic limitations on the 1951 Convention on the Status of Refugees although this is an accession condition, meaning the Refugee Convention applies only to asylum-seekers originating from Europe. Turkey will not fully implement the EU readmission agreement until visa liberalisation for Turkish citizens to the Schengen zone is brought to the table. Integration between the EU and Turkey has therefore remained incomplete and has at times regressed, although efforts are being made to improve relations.

It must be said that there are indeed efforts to harmonise Turkish border controls with EU standards. Common regional border security policies are developing, along with

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[74] Baird, *op. cit.*, pp. 854-856.
[75] *Ibid.*
[76] *Ibid.*

new organisations. However, it must be taken into account that the EU is not the only actor present here. The International Organisation for Migration in Turkey is implementing two border management projects jointly amounting to €8.5 million, co-funded by the EU and the Turkish government. The purpose of the first project, "Supporting Turkey's Efforts to Manage Migration" is to reinforce the migration management capacity of Turkish authorities, strengthen government institutions and encourage regional governments to collaborate on understanding migratory patterns. The "Regional Cooperation on Border Management with Greece and Bulgaria – Phase 2" project is meant to enhance the development of effective and integrated systems in border management between Greece, Bulgaria and Turkey in line with EU standards.[77] Not only is this yet another point in favour of the 'Coherence' indicator, but it also illustrates that the EU's actorness expands to other international organisations to achieve external outcomes. Moreover, Turkey's willingness to cooperate has proven to be a key factor in the success or failure of EU initiatives.

Although Turkish institutions are being transformed according to EU accession requirements, Turkey's uncertain future has placed it in limbo and its border management bodies are neither inside nor entirely outside the EU framework.[78] Despite Turkish resistance regarding visa liberalisation and the temporary stagnation of negotiations during the coup attempt, convergence with EU standards persists and efforts are being made to centralise Turkish border management. Therefore, external outcomes in Turkey are moderate to strong. Table 3 summarises the findings for the Turkish case study.

Table 3: Level of Institutionalisation of Externalised IBM in Turkey

Institutional Coordination/Coherence (Carrapico & Barrinha, 2017)	
Vertical = strong	Horizontal = strong
New Capacities/Competences (Baird, 2015) = moderate	
External Outcomes (Baird, 2015) = moderate-strong	
Overall Assessment: moderate-strong	

Source: compiled by the author.

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[77] International Organisation for Migration, *IOM, EU, Turkey Cooperate on EUR 8.5 Million Migration and Border Management Projects*, Press Release, 6 February 2017.
[78] Baird, *op. cit.*, pp. 856-857.

Conclusions

This paper started by posing the following research question: What has been the effect of the 2011 Arab Spring and the 2015 'refugee crisis' on the institutionalisation of EU border management? In other words, to what extent have these two events served as external catalysts for EU integration in this field? The analysis focused mainly on the externalisation of IBM rather than looking exclusively at the internal aspect of border management policy. To answer the research question, an analytical framework was developed to assess the level of institutionalisation that has been achieved in the EU's externalisation of border management using two case studies: Libya and Turkey.

Making Sense of the Findings

Overall, it was concluded that there has been a weak level of institutionalisation when externalising IBM to Libya, as opposed to moderate-to-strong institutionalisation in the case of Turkey. As previously established, these two case studies were chosen for the stark contrast between Libya and Turkey which was expected to produce different outcomes. Although Libya is in the ENP, it does not have an association agreement with the EU and so remains outside most ENP structures. Turkey, on the other hand, is not an ENP partner, but it is in the Union for the Mediterranean and a candidate country that benefits from the EU Instrument for Pre-Accession Assistance (IPA). Notwithstanding these funds, Turkey has only managed to close one Chapter of the EU *acquis* out of the 33 Chapters that must be negotiated throughout the accession process, meaning obstacles to externalisation of border management remain in place. Unlike Libya, however, Turkey possesses the administrative infrastructure needed, therefore making it only a question of policy harmonisation.

Despite varying results, both cases confirm that developments in third countries trigger EU integration, which transfers powers to the supranational level, thereby increasing EU actorness. The interplay between necessary cooperation and reluctance to cede national sovereignty is ever-present. On the one hand, the rise of populism favours less institutionalisation and seeks to roll back integration. On the other hand, the institutionalisation of external capacities may result from the Commission's efforts to expand its competence or from the willingness of member states to band together to tackle transboundary crises.

Figure 1 below demonstrates a simple linear model explaining how an external triggering event can kick-start EU integration in a given field (in this case, border

management). This integration allows IBM to become further institutionalised, thereby providing the EU with more competences to act externally in this policy area and influence the third countries concerned. But as previously mentioned, it is worth noting that the process may actually be more of a cycle than a clear linear process. Since the final phase changes the circumstances in the affected third countries, this can again influence the EU integration process from the outside since the EU must again adapt to the changed surroundings. It is possible, for instance, that if EU-funded training and capacity-building helps neighbouring countries to efficiently manage migration while fully respecting the human rights of migrants and asylum-seekers, the political incentive to increase FRONTEX's mandate may weaken.

Figure 1: The Institutionalisation and Externalisation Process in IBM

Source: compiled by the author.

These findings can be generalised to other countries for contrast. Morocco, for instance, participates in the German-Moroccan Partnership on Asylum and International Refugee Protection commissioned by the German Federal Foreign Office (GIZ). The Morocco-GIZ Partnership assists the Moroccan Ministry of Expatriates and Migration Affairs in the implementation of Morocco's new National Strategy on Migration and Asylum which was adopted in 2014. A quick overview suggests moderate to strong EU coherence since Germany's initiative is another example of individual member states acting on behalf of EU interests and collaborating with European bodies. External outcomes may also be classed as moderate to strong since clear results have been achieved with the implementation of new domestic policies in Morocco and signs of ongoing progress. However, it remains to be seen whether the EU has gained more competences in this area, since the partnership is for all intents and purposes a German initiative. It would be interesting for future studies to compare these cases with the Western Balkan countries, some of which have shown faster progress under funding from the IPA.

The hybrid framework used in this study (Table 1) may be replicated in other externalised policy areas to analyse their level of institutionalisation. For instance, future studies can be carried out on asylum policy, particularly in light of ongoing CEAS reform and the future EU Agency for Asylum, in light of which a new external action strategy for the Agency is to be developed. This would transform EASO into a fully-fledged Union agency with a wider mandate that will enable it to post Liaison Officers and conclude Working Agreements with third countries.[79] While this study is not meant as an endorsement of securitisation, the institutionalisation framework developed here provides fresh insight into the influence of outside events and entities on the inner functioning of the EU. It also has a strong potential to be applied to a variety of non-migration related areas such as trade, energy, environment or development aid.

The Future of IBM: What Way Forward?

Overall, institutionalisation has been achieved to a moderate extent since the two crises. Based on these observations, a number of conclusions or proposals may be extracted, accompanied by concrete examples, to illustrate the following points:

First, in order to encourage cooperation and a proportionate distribution of refugees, coordination between member states must be ensured. This is to be achieved through the still ongoing CEAS reform. However, coherence between the internal and external aspects of migration must also be strengthened, namely through cooperation between FRONTEX operations and CSDP missions. Due to the mixed nature of JHA competences on the one hand and the intergovernmental procedures in CFSP/CSDP on the other, it is highly unlikely that a joint institution can be established. Further focus should therefore be placed on arrangements like the Justice and Home Affairs-External Relations (JAI-RELEX) or JAIEX Working Party and the High-Level Working Group on Migration. EU agencies will also benefit from cooperating with private entities through Private Sponsorship Programmes (PSP). Upon invitation of the European Commission, a pilot project on PSP has been undertaken by EASO to coordinate between interested member states, while engaging various relevant organisations.

Second, migration-related EU agencies must be strengthened and new institutions established. FRONTEX should continue focusing on obtaining its own resources to avoid depending entirely on member state contributions. However, resistance from national

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[79] European Commission, 'Proposal for a Regulation of the European Parliament ad of the Council on the European Union Agency for Asylum and Repealing Regulation (EU) No 439/2010', COM(2016) 271 final, Brussels, 4 May 2016.

armed forces makes drastic changes beyond current coordinative functions highly unlikely. Following the MV Lifeline saga, an urgent European Council summit called for an increase in centres on EU territory and the establishment of reception centres in third countries to prevent migrants from taking to the sea.[80] This resolution for reception centres suggests a trend towards institutionalisation; however, it raises serious human rights concerns and member states have shown no interest in hosting controlled centres. A ten-page confidential report from the European Parliament's Legal Service has been leaked by the EUObserver and is reported to state that disembarkation platforms "could lawfully be established outside of the European Union, in order to receive migrants rescued outside the territory of the Union's member states".[81] Although the European Commission tasked EASO with assessing the safety of Morocco and Tunisia, neither country has shown an interest in the plan for disembarkation platforms and African countries view the proposal as Europe's attempt to outsource responsibility back to Africa. Nevertheless, the EEAS maintains that negotiations regarding disembarkation are proceeding in the Council.[82] This is an instance which somewhat contradicts the original hypothesis of this paper, as we are witnessing EU leaders attempting to plough through with an initiative regardless of the lack of third country support. It does, however, confirm that external events and common problems provide a powerful incentive for negotiations to continue in the Council.

Third, more resources must be invested in reforms in third-country institutions. This can be clearly seen in Morocco's involvement in the GIZ project and the development of Directorate-General of Migration Management in the Turkish Ministry of Interior which is mandated to register individuals for temporary protection through its Provincial Directorates for Migration Management. Pressure must be placed on Turkey to adhere to international law, namely regarding the Geneva Refugee Convention. In return, faster EU decision-making procedures must be developed. Turkish frustrations over delays in implementing the 18 March 2016 Statement risk Turkey's continued loss of interest in EU accession, and hence lack of incentives for further reform. Turkey plays an indispensable role in migration management and may doubt whether accession is realistic, given that it is not in the EU's interest to acquire a direct border with Syria. Such uncertainties must be clarified. In Libya's case, the EU must ensure a smooth

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[80] D.M. Herszenhorn, J. Barigazzi & M. De La Baume, 'EU Leaders Clinch Migration Deal in Marathon Summit', *Politico*, 29 June 2018.

[81] N. Nielsen, 'EP Lawyers Back EU Plans for Migrant Centres in Africa', *EU Observer*, 27 November 2018,

[82] *Ibid.*

democratic transition during its first general elections since the revolts. International support such as election observation missions may facilitate the process.

Fourth, events such as Brexit show that it would be wrong to assume that IBM is headed towards a more federalised system; however, integration shows overall signs of increasing. The EU has displayed an ability to adapt to specific crises, even if decision-making institutions are not capable of responding immediately. However, the exact same crisis will never happen in the exact same way again, meaning that further reforms may be required in the future. Nevertheless, substantial developments have occurred as a response to extra-EU immigration. Both case studies illustrate that actors are constantly being influenced by one another and are continuously changing in an increasingly globalised world.

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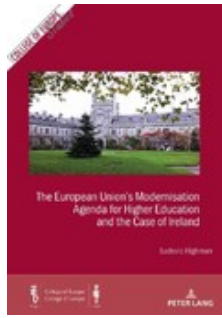
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